DOCKET NO. 23309

COMPLAINT OF IP COMMUNICATIONS	§	
CORPORATION FOR EXPEDITED POST	§	
INTERCONNECTION DISPUTE	§	PUBLIC UTILITY COMMISSION
RESOLUTION REGARDING PREORDER	§	
INFORMATION REQUIRED FROM	§	OF TEXAS
SOUTHWESTERN BELL TELEPHONE	§	
COMPANY TO SUBMIT ORDERS TO	§	
FACILITATE AN XDSL LOOP	§	
CLEC-TO-CLEC CONVERSION	§	

ARBITRATION AWARD

I. Procedural History

On November 21, 2000, IP Communications Corporation (IP) filed a complaint against Southwestern Bell Telephone Company (SWBT) requesting expedited post-interconnection dispute resolution under the Federal Telecommunications Act of 1996 (FTA) § 252(b)(1) and P.U.C. PROC. R. 22.326 and 22.327. The parties ultimately agreed on a procedural schedule, including a date for hearing. On January 19, 2001, the parties filed a joint decision point list (DPL) outlining the issues and summarizing the parties respective positions. On February 2, 2001, a hearing on the merits was held in accordance with the Commission's rules and FTA § 252(c).

II. Introduction

Reusing loop facilities in the context of a CLEC-to-CLEC migration is at the heart of this dispute.[1] The specific issue is whether SWBT is obligated to provide IP with Circuit Identifiers (Circuit IDs) in migrating stand-alone xDSL UNE Loops (stand-alone DSL loops).[2]

A Circuit ID is a unique, 11-digit, alpha-numeric code originally provisioned and assigned to a loop by an incumbent local exchange carrier (ILEC) that identifies the loop.[3] In a

---

[1] CLEC-to-CLEC migrations allow customers to switch from one CLEC to another CLEC with minimal disruption in service.

[2] Joint Decision Point List (DPL) at 2.

CLEC-to-CLEC migration the Circuit ID information ensures that the ILEC migrates the working loop.[4] Where a voice loop or voice/data loop is being migrated, the customer's telephone number (TN) is used by the ILEC to retrieve the Circuit ID.[5] Stand-alone DSL loops, however, have no associated TN.[6] A "winning" CLEC, therefore, must obtain the Circuit IDs of the loops to be migrated from either the "losing" CLEC and/or the provisioning ILEC.

III. Post-Hearing Filings

On February 28, 2001, SWBT filed a letter in this docket notifying the Commission that SWBT "has been put on notice that it is to stop immediately the process of CLEC to CLEC migration orders unless the losing CLEC has given permission to release the facilities." SWBT attached a redacted version of a letter it had received from a CLEC in bankruptcy. SWBT requested that the Commission delay any ruling that might involve the disposition of stand-alone loops pending direction from the bankruptcy court. IP responded on March 1, 2001, stating that SWBT was improperly attempting to submit evidence after the close of the hearing.

Because of the importance of the issues raised by SWBT, the undersigned Arbitrators conferred with the parties and asked them to identify any potential issues raised by SWBT's filing and provide the Arbitrators with legal briefs on the issues. The parties agreed that SWBT's filing raised the following two issues:

1. What is the property interest of a "losing" CLEC in a stand-alone loop subject to a CLEC-to-CLEC migration; and
2. Should prior notice be provided to a "losing" CLEC before the initiation of a one-step migration process?

After reviewing the issues submitted, along with the briefing on those issues, the Arbitrators agree with IP's position that these issues are irrelevant to the issues presented in this docket. This Award, therefore, is specifically limited to the issues identified in the DPL and it will not address the late-filed issues raised by SWBT.

---

3 SWBT Ex. No. 4, *Rebuttal Testimony of Robin L. Jacobson* at 2-3 (Jacobson Rebuttal.); IP Ex. No. 1, *Direct Testimony of Jo Gentry* at 6-7 (Gentry Direct).

4 *Id.*; SWBT Ex. No. 3, *Direct Testimony of Brian D. Noland* at 4 (Noland Direct); SWBT Ex. No. 1, Jacobson Rebuttal at 2-3.

5 SWBT Ex. No. 2, *Direct Testimony of Daniel L. Colin* at 5 (Colin Direct).

IV. DPL Issues

1. Should SWBT be required to provide Circuit IDs as part of the process to support CLEC-to-CLEC Migrations a/k/a reuse of facilities orders?

IP's Position

IP's position is that Circuit IDs are part of the "preorder information" that SWBT maintains in its databases and is obligated to furnish under the parties interconnection agreement.[7] IP additionally maintains that aside from contractual requirements, SWBT should be required to furnish Circuit IDs since (a) SWBT is requesting the Circuit ID on its own local service request (LSR); (b) Circuit IDs originate and are maintained by SWBT because SWBT owns the network; and (c) it is more efficient and minimizes potential service problems for the end-user.[8] In support of its position, IP claims that obtaining Circuit IDs from other CLECs is inefficient and futile, even in instances where the losing CLEC claims to be cooperative.[9] On the other hand, obtaining the information from SWBT involves, in most instances, nothing more than running database inquiries using customers names and addresses, and, if need be, the date the loop was originally provisioned.[10]

SWBT's Position

SWBT's position is that Circuit IDs are not part of the "preorder information" that SWBT is obligated to provide to IP under their interconnection agreement. SWBT maintains that "preorder information" includes only loop makeup information, i.e., loop qualification (loop qual), which does not include Circuit IDs.[11] Moreover, SWBT claims that: (1) the Order and

---

6 *Id.* at 4.

7 DPL at 2.

8 IP Ex. No. 1, Gentry Direct at 6-11.

9 *Arbitration Hearing Transcript* at 176, 178-79, 208-09, 225 (Tr.); SWBT Ex. No. 6, *Deposition Testimony of IP's Jo Gentry* at 46-49, 59-64, 72-76 (Gentry Depo)

10 Tr. at 78, 156-57; IP Ex. No. 5, *Telephonic Deposition of SWBT's Joe Zills* at 8-9, 13-16, 21-22 (Zills Depo); IP Ex. No. 1, Gentry Direct Ex. JG-1 at 18-20, JG-2 at 23; IP Ex. No. 4, *Telephonic Deposition of SWBT's Roy Garcia* at 7-10 (Garcia Depo).

11 Joint DPL at 2; SWBT Ex. No. 4, Jacobson Rebuttal at 9; SWBT Ex. No. 5, *Rebuttal Testimony of Daniel L. Colin* at 2 (Colin Rebuttal).

Billing Forum (OBF) requires a "losing" CLEC to provide Circuit IDs to a "winning" CLEC;[12] (2) alternatively, this is an industry issue and should be dealt with in an industry wide forum such as the Change Management Process (CMP) or SWBT's CLEC User Forum (CUF);[13] and (3) beginning March 1, 2001, Commission Rules will likewise require CLECs to cooperate in the exchange of Circuit IDs.[14] SWBT, therefore, claims that IP is seeking a policy decision under the guise of a post-interconnection dispute.[15] Finally, SWBT asserts that requiring it to provide Circuit IDs is inefficient, increases the possibility of end users being inappropriately disconnected, poses a threat to the integrity of SWBT's databases, and could not be implemented until 2002.[16]

Arbitrators' Decision

As the parties correctly point out, this is essentially a contract dispute involving the DSL Appendix to the parties Interconnection Agreement (DSL Appendix).[17] In construing the contract language, the Arbitrators considered the underlying purposes of the FTA. the T2A, as well as previous decisions by the Commission and the Federal Communications Commission, all of which are dedicated to fostering actual competition, removing regulatory barriers, and, of particular concern in this instance, seeking the rapid introduction and deployment of advanced services such as Digital Subscriber Lines (DSL).

The Arbitrators understand and are sympathetic to the concerns expressed by both parties. Although SWBT raised issues regarding the accessibility and integrity of SWBT's systems, personnel matters, and erroneous migrations and slamming, the Arbitrators believe that IP's ability to obtain Circuit IDs is paramount. Accordingly, for the reasons discussed below, the

---

12 Joint DPL at 3; SWBT Ex. No. 4, Jacobson Rebuttal at 4-7.

13 *See generally* Tr. 228-29; Joint DPL at 3; SWBT Ex No. 4, Jacobson Rebuttal at 7, 9.

14 SWBT Ex. No. 2, Colin Direct at 6.

15 Joint DPL at 2.

16 Tr. at 160-61; SWBT Ex. No. 1, *Direct Testimony of Robin Jacobson* at 4-5 (Jacobson Direct); SWBT Ex. No. 4, Jacobson Rebuttal at 4, 6; SWBT Ex. No. 2, Colin Direct at 4-6; SWBT Ex. No. 5, Colin Rebuttal at 3.

17 Joint DPL at 2; SWBT Ex. No. 13, *DSL Appendix, Pursuant to Arbitration Award in 20226/20272* (DSL Appendix).

Arbitrators agree with IP and find that SWBT is contractually obligated to timely provide IP with Circuit IDs in a CLEC-to-CLEC migration of stand-alone DSL loops.

Discussion

A. Contractual Obligations

The Arbitrators agree that this is essentially a contract dispute. The specific provision in question is DSL Appendix § 6.2.5 that states:

> SWBT will provide real time, electronic access to all systems needed for efficiently obtaining preordering information for the provisioning of advanced services such as xDSL. SWBT will develop and deploy enhancements to its existing interfaces Datagate and EDI that will allow CLEC as well as SWBT's retail operations or its advanced service subsidiary, to have real-time electronic access as a preordering function to loop makeup information, as defined in 6.2 above. SWBT shall develop and deploy these enhancements as soon as possible, but in no event no later than May 30, 2000.[18]

The Arbitrators disagree with SWBT's assertion that policy should play no role in interpreting 6.2.5.[19] Commission Rule 22.321 provides that "the commission pursuant to its authority under the federal Telecommunications Act of 1996 (FTA96)" may resolve disputed issues including "matters not explicitly addressed in the interconnection agreement."[20] The Commission's procedures are intended to resolve disputes concerning interpretation of terms and conditions, implementation of activities explicitly or implicitly contemplated in the interconnection agreement, and enforcement of terms and conditions.[21] Simply stated, the contract cannot be interpreted in a vacuum. Instead, the Arbitrators believe it is appropriate to consider the underlying policies of the FTA, especially the policy favoring broad advancement of advanced services.[22]

---

[18] *Id.* at 12.

[19] Tr. at 114, 214; Joint DPL at 2-3.

[20] P.U.C. PROC. R. 22.321.

[21] *Id.*

[22] "(a) In General. - The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap

The Arbitrators further disagree with SWBT's position that this issue may **only** be addressed in a forum comprised of the entire CLEC community. In the past five years, since the enactment of FTA96, many important decisions have been made in the context of individual arbitrations for post-interconnection arbitration disputes. While it may have been appropriate to consider this issue in a forum where more CLECs could participate, IP is clearly within its rights to have the Commission interpret the terms of its interconnection agreement with SWBT. Further, other CLECs will have the ability to file *Amicus Curiae* comments to the extent they agree or disagree with the result reached herein.[23]

As in many contractual disputes, the parties read the same language but come to opposite conclusions. IP focuses on the words "preordering information" for the proposition that Circuit IDs are part of the information SWBT is obligated to provide.[24] IP states that regardless of whether Circuit IDs constitute loop qualification (loop qual), or loop makeup information, they are unquestionably included in preordering information because without them loop qual cannot be determined and therefore becomes meaningless in the migration context.[25] SWBT, on the other hand, directs the Arbitrators' attention to the words "loop makeup information" as defining what it is obligated to provide in the preordering process.[26]

"Preordering" is the title of section 6.2 of the DSL Appendix. Section 6.2.5 states that SWBT will "provide real time, electronic access to all systems needed for efficiently obtaining preorder information."[27] SWBT posits that preorder information must not be read in a vacuum but rather must be limited by the second sentence in the section, which allows a CLEC to have

---

regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment." Telecommunications Act of 1996, Pub. L. 104-104, title VII, Sec. 706, Feb. 8, 1996, 110 Stat. 153.

23 Additionally, the Arbitrators do not agree that this issue has been resolved by the OBF. The Commission clearly prefers resolution of issues such as these in working sessions attended by all interested parties, whether those working sessions are forums like the OBF or collaborative sessions. Oftentimes, however, such forums respond slowly to rapidly evolving market issues like the one presented in this docket. If IP, or any other carrier, believes it is competitively disadvantaged because of SWBT's interpretation of its interconnection agreement, that carrier may come to this Commission for assistance.

24 Joint DPL at 2.

25 Tr. at 48-50; SWBT Ex. No. 6, Gentry Depo at 97-100, 130-31.

26 Joint DPL at 2.

27 SWBT Ex. No. 13, DSL Appendix at 11.

"real-time electronic access as a preordering function to loop makeup information, as defined in 6.2 above."[28] Loop makeup is specifically defined in 6.2.1 to "include physical attributes of the loop plant."[29]

The Arbitrators believe that the DSL Appendix was originally written for the primary purpose of provisioning new connection DSL orders where the Circuit ID is originally provisioned by SWBT. As this industry matures, however, so does the nature of DSL orders. As a result, this Commission is faced with deciding how to interpret contract language in a CLEC-to-CLEC migration, which involves reusing a previously provisioned loop and corresponding Circuit ID. Under the plain language of 6.2, in order to determine if SWBT is required to provide IP with Circuit IDs, the Arbitrators must first determine if such information is "needed for efficiently obtaining preorder information."

B. Obtaining Circuit IDs

Initially, the Arbitrators recognize the inherent difficulties of obtaining Circuit IDs on both sides. The Arbitrators are mindful, however, of the underlying goal to advance the introduction and deployment of advanced services as a means of ensuring competition. Any delays therein serve only to reinforce customers' reluctance to consider competitive alternatives.

During the hearing, SWBT acknowledged that Circuit IDs are accessible through its Loop Facilities and Assignment Center database (LFACS)[30] and its Customer Information Database (CIDB).[31] SWBT's decision not to provide Circuit IDs appears to be rooted more in current policy and procedure, rather than technical restraints. IP's difficulties in obtaining Circuit IDs from a "losing" CLEC, however, are well-documented on this record, leading the Arbitrators to conclude the Circuit ID is preorder information SWBT is required to provide under the terms of the party's interconnection agreement.

---

28 *Id.*; Tr. at 37-40.

29 *Id.* IP essentially concedes that historical loop qual consists of the physical attributes of the line or loop. Tr. at 47-50; SWBT Ex. No. 10, *Affidavit of Jo Gentry, California IP Communications*, at 8-11. As IP's Jo Gentry stated, Circuit IDs are the means to access loop qual when you do not have a TN. SWBT Ex. No. 6, Gentry Depo at 99-100.

30 IP Ex. No. 5, Zills Depo at 8-9, 13-16, 21-22; IP Ex. No. 1, Gentry Direct Ex. JG-1 at 18-20.

31 IP Ex. No. 4, Garcia Depo at 7-10; IP Ex. No. 1, Gentry Direct Ex. JG-2 at 23.

1. IP's Efforts

From e-mails, letters, and telephone calls to colleagues at competitors such as Jato, Northpoint, and Covad/Rhythms, to coordinating efforts with SWBT, the record clearly shows that IP has gone to great lengths to secure Circuit IDs, so that service could be provisioned in a timely and accurate manner.[32] For example, although the President & CEO of Jato envisioned "a process in which it [would] provide circuit identifications ("Circuit IDs") to interested CLECs,"[33] Jato ultimately failed to provide the Circuit IDs to IP and Jato's router was turned down without a single migration to IP.[34] It is likely that many of Jato's customers were without DSL service for some period of time.[35] In the case of Covad, IP's lengthy efforts to devise a process by which to obtain Circuit IDs, including having the switching customer request them from Covad, has so far rendered no results.[36] Undoubtedly, part of the problem lies in the fact that a losing CLEC does not have the incentive to cooperate; indeed the losing CLEC may use the information to attempt to "win-back" the departing customer. As for coordinating efforts with SWBT, the difficulty therein lies in the fact that despite SWBT's acknowledged ability to provide Circuit IDs, it claims that it is not obligated to do so because they are not part of loop qual.[37]

The Arbitrators agree with IP. Circuit ID is clearly "preorder information" for a stand-alone DSL order because it is required by SWBT on the LSR form used for ordering stand-alone DSL service. Further, it seems logical that since loop qualification information is part of preorder information, as SWBT admits, Circuit ID, the key that identifies the loop in order to retrieve loop makeup information, should likely be considered preorder information. Based upon the facts in this record, it is clear, that IP has a very difficult time obtaining Circuit ID

---

32 Tr. at 131-32, 207-211, 225-27; SWBT Ex. No. 6, Gentry Depo at 46-49, 84.

33 SWBT Ex. No. 11, *Jato Communications Letter* at 2.

34 Tr. at 141-143; SWBT Ex. No. 6, Gentry Depo at 59-64, 72-76.

35 *See generally* Tr. at 108-09.

36 SWBT Ex. No. 6, Gentry Depo at 42-49.

37 *Id.* at 40; Tr. at 89.

information, the very Circuit ID information required by SWBT on its LSR, efficiently without the use of SWBT's legacy systems. The Arbitrators, therefore, find that IP must be given access to the systems necessary to allow IP to efficiently obtain preorder information, including Circuit ID.

2. SWBT's Concerns

As SWBT acknowledges, it can, with the exceptions discussed in DPL Issue 3, access Circuit IDs by running queries or templates using a customer's name, address, and/or initials.[38] In fact, with the proper query, LFACS can return all Circuit IDs at a single address in a few seconds.[39] Distilled to their essence, therefore, SWBT's concerns are:

(i) The Circuit IDs contain proprietary information;[40]

(ii) Neither LFACS nor CIDB are presently configured to automatically return Circuit IDs based on Local Service Request (LSR) information;[41]

(iii) LFACS and CIDB are aging databases. The integrity of LFACS could be compromised by even one additional query;[42]

(iv) SWBT's Local Service Center (LSC) representatives, i.e., the people who are the liaison between CLECs and SWBT, do not have direct access to LFACS or CIDB, they are not trained to read Circuit IDs, nor are they trained to run the aforementioned queries and templates;[43] and

(v) The process is laden with the possibility of error, resulting in SWBT migrating the wrong loop, thus exposing itself to liability;[44]

Regarding proprietary concerns, SWBT acknowledges that it is the LFACS report generated as a result of inputting a Circuit ID that may contain proprietary information, not the Circuit ID itself.[45] As for the process not being automatic, neither is it if a CLEC, such as IP,

---

38 IP Ex. No. 5, Zills Depo at 8-9, 13-16, 21-22; IP Ex. No. 4, Garcia Depo at 7-10; IP Ex. No. 1, Gentry Direct Ex. JG-1 at 18-20, JG-2 at 23.

39 IP Ex. No. 5, Zills Depo at 15-16.

40 Tr. at 146-47, 49; SWBT Ex. No. 4, Jacobson Rebuttal at 9.

41 Tr. at 216; SWBT Ex. No. 4, Jacobson Rebuttal at 6.

42 Tr. at 160-61; SWBT Ex. No. 4, Jacobson Rebuttal at 6.

43 Tr. at 135-36; SWBT Ex. No. 4, Jacobson Rebuttal at 4-6.

44 Tr. at 149, 167-69; SWBT Ex. No. 2, Colin Direct at 4-5.

populates the LSR with the Circuit ID.[46] In both instances, the order is handled manually at this time.

As for concerns over database integrity, SWBT failed to provide evidence to support its claim that additional queries would cause the databases to fail, except to express concern over the number of "hits."[47] Under questioning by the Arbitrators, SWBT acknowledged that it has done no capacity testing of LFACS. SWBT's concerns over system integrity, therefore, are unsupported.[48] Especially given that LFACS appears to have capably absorbed the "thousands upon thousands upon thousands" of hits now being made to make CLEC loop qual inquiries, which the system was not originally designed to handle.[49]

SWBT also expressed great concern that the employees in its LSC do not having access to, or training on, LFACS and/or CIDB.[50] This problem seems to be one that can be addressed by SWBT.

C. Conclusion

Based on the evidence introduced, the Arbitrators find that the most effective means of encouraging seamless, timely CLEC-to-CLEC migrations of stand-alone DSL loops is to place the burden on SWBT to make the appropriate Circuit IDs available to IP upon request so that they can in turn be populated on an LSR for the purpose of migration.

Combining the evidence introduced with SWBT's unwillingness as the owner of the network and OSS to provide IP and other CLECs with the preorder information necessary to smoothly transition a customer from one CLEC to another, the Arbitrators believe it may be appropriate in the future to transfer SWBT's OSS systems to an independent third-party. Transfers of customers from the ILEC to the CLEC, from CLEC to CLEC, and from a CLEC

---

45 Tr. at 147-48, 235.

46 *Id.* at 216.

47 *Id.* at 150, 190, 195.

48 *Id.* at 150-53.

49 *Id.* at 190.

50 *Id.* at 113-116.

back to the ILEC would be processed by an entity that has no competitive interest in the outcome of the ordering process. Such a solution, however, was not presented in this case.

2. (IP's Proposed Issue) Is there already a query function in LFACS that can be used to obtain Circuit IDs?[51]

IP's Position

IP asserts that at present SWBT has the capacity to query LFACS to obtain Circuit IDs. In support of its position, IP cites the deposition of SWBT expert Joe Alton Zills in which he testified that LFACS has the capability to obtain Circuit IDs if given the end-user's address and wire center.[52] Specifically, Zills states that Circuit IDs can be obtained from LFACS when a query, I-N-Q, and a facility assignment, F-A-S-G are made.[53] IP further maintains that the LFACS query capability to obtain Circuit IDs using address information already exists.[54] Once the information is typed in the correct stream, the LFACS will search through that database to the wire center that is involved seeking the information for the user.[55] If the information exists and the entry is in its proper format, LFACS will produce the information stored within seconds.[56]

SWBT's Position

As discussed above, SWBT maintains that LSC representatives do not have access to LFACS and have no current capability to obtain this cross-reference information.[57] Additionally, SWBT states that although some Circuit ID information is available through LFACS, it may not be completely accurate for this function.[58]

---

51 SWBT disputes the inclusion of Issues Two and Three. Inasmuch as Issues 2 and 3 are merely subparts of Issue One, the Arbitrators do not believe SWBT is harmed in any way by a decision on these issues.

52 Joint DPL at 4.

53 IP Ex. No. 5, Zills Depo at 8-9, 13-16.

54 *Id.* at 13.

55 *Id.*

56 *Id.* at 9, 15-16.

57 Joint DPL at 4.

58 *Id.*

SWBT explains that the LFACS system was intended to be used by the mechanized loop assignment center (MLAC) for inventory and assignment of SWBT outside plant facilities.[59] The system was not designed to be used for identifying working circuits or telephone numbers at a particular address.[60] SWBT contends that in a stand-alone DSL, there is no telephone number associated with the loop. Once a loop has been turned over to the CLEC, SWBT does not have any accurate cross-reference capabilities to match the Circuit ID with the end-user address that are easily accessible to the LSC.[61]

SWBT witness Robin L. Jacobson avers that LFACS is triggered by a firm order request and is not used today except to extract loop qualification information.[62] SWBT further avers that to obtain the Circuit ID of a current CLEC through an end-user query requires the development of new pre-ordering Circuit ID queries.[63] These pre-ordering queries interface with SWBT's LFACS, Verigate, Datagate, EDI/Corba pre-ordering interfaces.[64] Jacobson goes on to explain that the earliest that SWBT can address a new Circuit ID pre-ordering query using LFACS will be in the first quarter of 2002.[65]

Arbitrators' Decision

The Arbitrators find that, in instances where there is but one stand-alone DSL terminating at an end-user's address, the evidence clearly demonstrates SWBT's ability to obtain Circuit IDs using the address and the wire center location.[66] Once the address is correctly input into LFACS,[67] the Circuit ID is returned in "just a few seconds."[68] Only in circumstances in which

---

59 SWBT Ex. No. 3, Noland Direct at 5.

60 *Id.*

61 SWBT Ex. No. 2, Colin Direct at 4.

62 SWBT Ex. No. 1, Jacobson Direct at 3-5.

63 *Id.*

64 *Id.*

65 *Id.*

66 Tr. at 78, 113, 157; IP Ex. No. 5, Zills Depo at 8-9, 13-14; IP Ex. No. 1, Gentry Direct Exs. JG-1 at 18-20; JG-2 at 23;

67 IP Ex. No. 5, Zills Depo at 17-18.

there are multiple stand-alone DSL loops terminating at a single address, would additional information, such as service establishment date, be needed in order to ensure that the correct loop is migrated.[69] Such instances appear to be anomalies, and when and if they do occur, IP has stated its willingness to work with SWBT to establish a process to identify the correct Circuit ID.[70]

Admittedly, SWBT's LSC representatives do not have access to LFACS and are not presently trained to read and interpret Circuit IDs.[71] This obstacle, however, exists regardless of whether a CLEC or SWBT populates the Circuit ID, and, as stated above, SWBT can remedy this problem.[72]

The Arbitrators note that for a new stand-alone DSL loop, the Circuit ID is provided by SWBT.[73] The Arbitrators find that this ability of SWBT to assign a Circuit ID for a new loop implies the existence of a database that can provide the Circuit ID for a specific loop. It also demonstrates SWBT's capability of accessing this database for the purpose of obtaining a Circuit ID. With respect to SWBT's timeline for integrating a query to automate the process, no evidence was offered by SWBT to support this assertion. At present, SWBT's procedure, even if IP were to populate the LSR with the Circuit ID, is for the LSR to fall out and be handled manually.[74]

3. (IP's Proposed Issue) What should be done in the unique situations where there are multiple DSL loop Circuit IDs to the same customer premises?

IP's Position

IP maintains that contrary to SWBT's arguments, one should not fail to implement an important requirement, such as providing a Circuit ID, simply because the tool will not fit 100%

---

68 *Id.* at 15-16.

69 Tr. at 105-106.

70 *Id.* at 169-71.

71 *Id.* at 113-116

72 *Id.* at 146, 216.

73 IP Ex. No. 1, Gentry Direct at 7.

74 Tr. at 216.

of the population.[75] In most circumstances, there will only be one stand-alone DSL loop terminating to a particular address.[76] In those circumstances, the embedded code in the Circuit ID distinguishes the migrating loop's functionality from its voice loop counterpart(s).[77]

In the rare circumstances where there are multiple DSL Circuit IDs to a customer's premises,[78] the parties should work together to determine whether additional queries could be used to determine the appropriate Circuit ID. For example, a query based on service establishment dates could be used to differentiate between multiple DSL circuits to a single address.[79] IP explains that when unique situations arise, it readily acknowledges SWBT's right to "reject it back to me [IP] for further process, and we'll figure out how to address anomalies."[80] The first step, however is to require SWBT to work in such a collaborative manner.

SWBT's Position

SWBT asserts that IP's question in this issue simply points to the necessity of CLECs working together to exchange migration information to ensure that accurate information is passed to SWBT so that it will disconnect and reconnect the appropriate end-user with the least down time.[81] SWBT argues that IP's use of installation date confirms that information must come from the losing CLEC. Without contacting the losing CLEC, IP would be no more likely to get accurate dates of installation than the Circuit ID. For these reasons, SWBT asserts that if IP were to follow existing OBF guidelines, it can avoid the confusion of dealing with multiple loops and will put the interest of the consumer ahead of its business plan.[82]

---

75 *Id.* at 170-71, 177.

76 *Id.* at 177, 187-88.

77 *Id.* at 99-102, 165-166; IP Ex. No. 4, Garcia Depo at 18-20.

78 Tr. at 171-173.

79 *Id.* at 106-107; IP Ex. No. 4, Garcia Depo. at 20-21.

80 Tr. at 170-71.

81 Joint DPL at 4-5.

82 *Id.*

SWBT objects to providing Circuit ID information because multiple loops may terminate at a particular address.[83] Consequently, if the wrong services were disconnected, SWBT asserts that it could potentially be liable if emergency services were unavailable or other difficulties were caused by an unauthorized disconnect.[84] Moreover, SWBT avers that it has the responsibility to maintain the confidentiality of marketing strategies or services.[85] A Circuit ID will indicate what type of loop has been leased from SWBT.[86] If Circuit IDs were easily accessible, a CLEC marketing group could target specific customers prior to actually having won over the customer.[87]

Arbitrators' Decision

The Arbitrators find that the assumption underlying this issue is the absence of a query capability in the SWBT system that can be used to obtain and identify Circuit IDs for purposes of CLEC-to-CLEC migration. In DPL issue Nos. 1 and 2, the Arbitrators found to the contrary. Accordingly, SWBT's concerns regarding a single stand-alone DSL loop terminating at a given address has been addressed. Additionally, SWBT did not provide sufficient evidence on the prevalence of multiple stand-alone DSL loops terminating to a single address. The primary evidence offered was the anecdotal testimony of SWBT expert John Mitchell in which he described his "smart home" neighborhood and the potential for their being several different service providers and corresponding stand-alone DSL loops to a single address.[88] The Arbitrators acknowledge that this may be the case in the future, but that at present, it appears to be far from the norm. Conversely, IP testified that in its experience with migration, single line CLEC-to-CLEC migration is far more predominant.[89]

---

83 Tr. at 100-01, 104, 166-170.

84 SWBT Ex. No. 5, Colin Rebuttal, at 3.

85 SWBT Ex. No. 2, Colin Direct at 5.

86 Tr. at 148.

87 SWBT Ex. No. 2, Colin Direct at 4-5.

88 Tr. at 172-73.

89 *Id.* at 176-78.

The Arbitrators were not persuaded by SWBT's argument that it cannot exchange Circuit ID information because of the proprietary nature of Circuit ID information. In fact, SWBT witnesses testified that the Circuit ID is an alpha-numeric field that contains information on the type of line being used, information that is deemed by the Arbitrators to be non-proprietary.[90] Moreover, as previously discussed, SWBT witness Mr. Colin clarified that it is not the Circuit ID that contains proprietary information, but rather the report generated from the Circuit ID.[91]

In conclusion, the Arbitrators find that problems arising out of migrating multiple lines within a single address can be mitigated if the ILECs and CLECs work together to exchange migration information.

SIGNED AT AUSTIN, TEXAS the ____ day of April, 2001.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA NELSON GEIGER
ARBITRATOR

STEVEN PAMINTUAN
ARBITRATOR

[90] *Id.* at 148-49, 199.

[91] *Id.* at 235.